

Kimberlee A. Colbo
HUGHES PFIFFNER GORSKI
SEEDORF & ODSEN, LLC
3900 C Street, Suite 1001
Anchorage, Alaska 99503
Telephone: (907) 274-7522
Facsimile: (907) 263-8320

Attorneys for Defendants State Farm Mutual Automobile Insurance Company of Bloomington, Illinois and Michelle Garner

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

DAVID WIDBY,

Plaintiff,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY OF
BLOOMINGTON, ILLINOIS AND
MICHELLE L. GARNER,

Defendant.

Case No. _____

AFFIDAVIT OF MICHELLE GARNER

STATE OF ALASKA :
: ss.
THIRD JUDICIAL DISTRICT :

MICHELLE GARNER, being first duly sworn on her oath, deposes and states as follows:

Hughes Pfiiffner Gorski
Seedorf & Odsen, LLC
ATTORNEYS AT LAW
3900 C STREET
ANCHORAGE, AK 99503
(907) 274-7522
(907) 263-8320 FAX

1. I am employed by State Farm Mutual Automobile Insurance Company as a claim representative and have personal knowledge of the matters stated herein.

2. I was assigned responsibility for handling an underinsured motorist claim submitted by David Widby to State Farm.

3. Michael Schneider notified State Farm that he was representing Mr. Widby and most of my communications have been with Mr. Schneider.

4. On May 8, 2008, I advised Mr. Schneider of the approaching deadline for Mr. Widby to file a lawsuit if he wished to pursue his claim for underinsured motorist coverage. See Exhibit A to my affidavit.

5. On May 21, 2008, Mr. Schneider told me that if State Farm would agree not to remove a lawsuit to federal court, he would not name me as a defendant. A copy of my summary of our conversation is attached as Exhibit B to my affidavit.

6. I advised Mr. Schneider that State Farm would not enter into such an agreement. I confirmed our conversation and my response in a letter dated May 22, 2008, attached hereto as Exhibit C.

7. I was served with a copy of a complaint filed by David Widby naming both State Farm and myself as defendants on May 30, 2008.

FURTHER YOUR AFFIANT SAYETH NAUGHT

Hughes Pfeiffer Gossick
Sedlock & Olszen, LLC
ATTORNEYS AT LAW
2000 C STREET
SUITE 1100
ANCHORAGE, ALASKA 99503
(907) 274-7522
(907) 274-3200 FAX



Michelle Garner

SUBSCRIBED AND SWORN TO before me this 24th day of June, 2008.



Marcetta Fleming

Notary Public in and for Alaska

My commission expires:

My Commission Expires
October 16, 2010

I hereby certify that a true and correct copy
of the foregoing was served via mail
on the 25th day of June, 2008 on:

Michael J. Schneider
Law Offices of Michael J. Schneider, P.C.
880 N Street, Suite 202
Anchorage, AK 99501

DATED this 25th day of June, 2008.

This document is in Times New Roman 13.

Patricia Bruce

Hughes Pfeiffer Gorski
Schnell & Owen, LLC
ATTORNEYS AT LAW
300 C STREET
SUITE 1010
ANCHORAGE, ALASKA 99503
(907) 274-7522
(907) 274-8720 fax

COPY

May 8, 2008

Anchorage Operations Center
P O Box 221
VIA FAX: 274-8200 DuPont, WA 98327
(907) 261-3700
Toll Free: (800)-478-3510
Fax: (877)-449-5794

Michael J. Schneider
Attorney at Law
880 N Street, #202
Anchorage, AK 99501

RE: Claim Number: 02-0527-261
Date of Loss: June 1, 2006
Our Insured: Kristine Widby
Your Client: David Widby

Dear Mr. Schneider:

I left a message for you, today. I am following up with you on the status of David Widby's injury. Is he ready to discuss settlement of his claim.

Mr. Widby has two years from the date of the accident to settle an underinsured motorist claim. If your client is unable to do so or if there is a dispute in liability or damages the policy states, "the insured shall, within two years immediately following the date of the accident, file a lawsuit, in a state or federal court" to protect their rights of recovery.

Please call me to discuss the status of Mr. Widby's injury.

Sincerely,

Michelle L. Garner
Claim Representative
(907) 261-3744
State Farm Mutual Automobile Insurance Company

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PAGE 1 of 1 EXHIBIT A

HOME OFFICES: BLOOMINGTON, ILLINOIS 61710

AUTO

claim number

02-0527-261

ACTIVITY LOG

date	time	entered by	office	region	no
05-21-08	12:20 PM	Garner, Michelle L	AKECF	Pacif NW	272
A: LM for Atty Schneider to c/b. Dictated letter to Atty Schneider confirming our position.					
05-21-08	08:47 AM	Fletcher, David	AKECF	Pacif NW	271

REDACTED

date	time	entered by	office	region	no
05-21-08	08:05 AM	Garner, Michelle L	AKECF	Pacif NW	270
TM Fletcher: Attorney Schneider called and intends to file suit against SF and name me as well. He will be asking for Declaratory Relief from endorsement 6127BN as well as for damages to be paid under the UIM coverage for David Widby. He said he would be willing to not name me if he has an agreement that we will not try to move case to Federal Court. He plans to file in State Court. Lets discuss how to proceed.					

date	time	entered by	office	region	no
05-09-08	04:11 AM	Garner, Michelle L	AKECF	Pacif NW	267
A: LM for Carol @ Atty Schneider's office that the certificates of coverage are ready to p/up downstairs.					

date	time	entered by	office	region	no
05-08-08	12:39 PM	Garner, Michelle L	AKECF	Pacif NW	266
A: TC from David Widby. He LM asking that I c/b regarding sending something to BC.					
: TC to Atty Schneider. Advised of above. He is fine w/ me calling David back to see if it is simply a letter to BC letting them know MPC is exhausted. If so, ok to handle.					
: RC to David. Confirmed he needs letter with MPC ledger faxed to BC/BS.					
: I sent.					

date	time	entered by	office	region	no
05-08-08	08:36 AM	Garner, Michelle L	AKECF	Pacif NW	265
A: TC from Atty Schneider. He LM asking for certificates of coverage on all 3 policies involved.					
: TC back to Atty Schneider. LM w/ Carol that I should be able to get cert of coverage to them soon.					
T: response from Atty Schneider; Suit? Demand?					

PAGE 1 of 1 EXHIBIT B

State Farm®
Providing Insurance and Financial Services
Home Office, Bloomington, Illinois 61710



May 22, 2008

MICHAEL SCHNEIDER
ATTORNEY AT LAW
880 N ST STE 202
ANCHORAGE AK 99501

Anchorage Operations Center
PO Box 221
DuPont, WA 98327-0221
Fax 877 449 5794

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RE: Claim Number: 02-0527-261
Date of Loss: June 1, 2006
Our Insured: Kristine Widby
Your Client: David Widby

Dear Mr. Schneider:

This will confirm our conversation on May 21, 2008. I understand you will be filing a lawsuit against State Farm in the Underinsured Motorist claim of David Widby. You indicate your intent is to file this lawsuit in State Court. You expressed your intent to name me in the lawsuit, as well as State Farm. You offered to refrain from naming me if State Farm agrees to keep the lawsuit in State Court.

At this time, we are declining your request, and we will await your decision on how you intend to file the lawsuit and will respond accordingly. If you have any questions or concerns, please do not hesitate to call.

Sincerely,

Michelle Garner
Claim Representative
907 261 3744
State Farm Mutual Automobile Insurance Company

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